

09:02 1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF TEXAS
3 DALLAS DIVISION

4 UNITED STATES OF AMERICA (NUMBER 3: 04-240-G
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8 HOLY LAND FOUNDATION, ET AL. (August 29, 2007

9 VOLUME 22
10 TRANSCRIPT OF TRIAL
11 BEFORE THE HONORABLE A. JOE FISH

12 A P P E A R A N C E S:

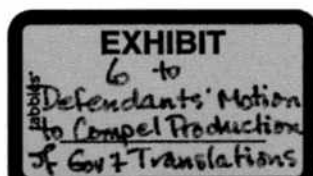
13
14 For the Government: MR. JIM JACKS
15 MR. BARRY JONAS
09:02 16 MS. ELIZABETH SHAPIRO
17 MR. NATHAN GARRETT
18 Assistant United States Attorney
19 UNITED STATES DEPARTMENT OF JUSTICE
20 NORTHERN DISTRICT OF TEXAS
21 U.S. Courthouse
22 1100 Commerce Street
23 Dallas, Texas 75242
24 214/659-8600

25 For the Defendants Holy Land and Shukri Baker:

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14:55 1 A Yes.

2 Q And it's to the Secretary of State of
3 Washington, D.C.?

4 A That's correct.

5 Q And can you find a date on there? Do you see a
6 date, March 07?

7 A I do. I don't see it here.

8 Q You don't know whether it's March 7 or March of
9 '07, do you?

10 A That's correct.

11 Q And I think we previously discussed this, so we
12 will move on. I have a couple of other things to clear up

13 from your direct examination, and one of them -- two of
14 them involve translation corrections. I just need to

14:56 15 check with the government to be sure they made these
16 corrections.

17 MS. HOLLANDER: We'll take care of those later,
18 your Honor. We just have some translation corrections.

19 BY MS. HOLLANDER:

20 Q Now, you described two companies that you
21 testified were money changers.

22 A Yes.

23 Q And one of them was how do you say it?

24 A Fayez Abu Aker was the company identified by Mr.
25 Avi as a HAMAS money changer.

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14:58 1 Q That's what Mr. Avi told you?

 2 A That's what he told us.

 3 Q That's where you got that information?

 4 A That's correct.

 5 Q Now, before this trial began, you didn't have

 6 that information, did you?

 7 A I don't know when obtained that information.

 8 Q It was relatively recently, correct?

 9 A It may have been.

 10 Q I'd like to draw your attention -- And this has

 11 not been admitted yet. Defendant's Exhibit 1103. This

 12 was a document found in the search of the Holy Land

 13 Foundation, correct?

 14 A That's correct.

14:59 15 Q It's got the Holy Land Bates stamp on it from

 16 the Holy Land documents, correct?

 17 A That's correct.

 18 Q And it appears to be -- If you look about five

 19 pages into the translation, it appears to be a bid or a

 20 price offer, correct?

 21 A That's what it says.

 22 Q You have to go about two pages farther. It has

 23 letterhead from the Abu Aker Trading Institute, correct?

 24 A I see that.

 25 Q And the next page is signed by Fayez Abu Odeh

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14:59 1 Aker?

2 A It has the name at the end.

3 Q And this is the person identified in your chart
4 labeled 20-63, correct?

5 A That's correct.

6 Q And that's the same person, correct?

7 A Yes, it is.

8 MS. HOLLANDER: Your Honor, I'd like to move the
9 admission of Defendant's Exhibit 1103 which relates to
10 this summary chart.

11 THE COURT: Well, I have been searching for it
12 on my exhibit list, and there seems to be a discrepancy
13 between the Defendants' Seventh Supplemental List which
14 ends at 1102, and then the eighth one starts with 1106.

15:01 15 MS. HOLLANDER: There were two. We thought we
16 had given you a copy, your Honor.

17 THE COURT: Then there is a Ninth Supplemental
18 List that has only one --

19 MS. HOLLANDER: That has 1108 on it.

20 THE COURT: Yes.

21 MS. HOLLANDER: Somehow you are missing one. I
22 apologize for that.

23 THE COURT: They seem to be in sequence, but
24 there is not that exhibit listed.

25 MS. HOLLANDER: I can't explain it at the

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15:02 1 moment. I thought we had it on the list.

2 THE COURT: Is there any objection to
3 Defendant's Exhibit 1103?

4 MR. GARRETT: No, your Honor.

5 THE COURT: Defendant's Exhibit 1103 will be
6 admitted, but I do need a supplemental list with that
7 number on it.

8 MS. HOLLANDER: We'll correct that right after
9 court, your Honor.

10 THE COURT: Before we get into that, let's take
11 our mid-afternoon recess, Ms. Hollander. We'll be in
12 recess until 3:20.

13 (Recess)

14 THE COURT: Go ahead, Ms. Hollander.

15:25 15 BY MS. HOLLANDER:

16 Q I'll draw your attention to Defendant's Exhibit
17 1103, the document we just admitted. We can now talk
18 about this in a little more detail. This is a document
19 that was originally in Arabic, correct?

20 A Yes, that's correct.

21 Q And in the Holy Land files it was in Aker. And
22 turn to the third page. At the top it says Abu Askar. I
23 guess sometimes it's spelled with the S and sometimes
24 without. You see Abu Aker Trading?

25 A Yes.

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15:26 1 Q And the spelling of these names changed?

2 A There is slight variation.

3 Q In translating from Arabic to English, it
4 doesn't always come out the same?

5 A Correct.

6 Q And you see the first page says "price offer"?

7 A Yes.

8 Q And the next page, if you assume a price offer
9 is a bid, it says "The bid has been awarded to the Abu
10 Aker Trading Establishment." Do you see that?

11 A Yes.

12 Q And the next page has a list -- I'm not going to
13 ask you to read this list, but this is a list of food. Is
14 that correct?

15:27 15 A That's correct.

16 Q Primarily food items?

17 A Yes.

18 Q Now go to Defendant's Exhibit 1104 which is not
19 admitted.

20 MS. HOLLANDER: Your Honor, we solved the
21 missing exhibit list problem, and there are three exhibits
22 that your Honor doesn't have, but you will at the end of
23 the day. This is the second of those, 1104.

24 BY MS. HOLLANDER:

25 Q Do you have it Agent Burns?

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15:27 1 A I do.

 2 Q And this is also an Arabic document?

 3 A It is.

 4 Q And this was also found in the Holy Land office?

 5 A Yes, it was.

 6 Q And this also involves the same gentlemen, Fayez

 7 Abu Aker?

 8 A Yes, it does.

 9 Q And if you look at your summary chart, 20-63.

 10 Look at Page 2. You see at the top \$6,220?

 11 A I do.

 12 Q And if you look at this document, it also

 13 references \$6,220?

 14 A It does.

15:28 15 MS. HOLLANDER: Your Honor, I move the admission

 16 of Defendant's Exhibit 1104.

 17 MR. GARRETT: No objection.

 18 THE COURT: Defendant's Exhibit 1104 is

 19 admitted.

 20 BY MS. HOLLANDER:

 21 Q Now, let's go back and look at the third page of

 22 the Arabic, and that has the Abu Aker Trading

 23 Establishment name on it, correct?

 24 A That's correct.

 25 Q Appears to have it in English and Arabic?

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15:29 1 A That's correct.

2 Q So -- Would it appear that he's doing business
3 in both the English language and Arabic since he has that
4 heading on his letterhead?

5 A I would hate to speculate about that, but he
6 does have it in English and what appears to be Arabic.

7 Q You have seen that before on documents?

8 A Yes.

9 Q And if you go down a little bit farther, it
10 actually has his signature there, does it not?

11 A It does.

12 Q Let's go to the next page where there is a
13 translation. This is a document from a bank, correct?

14 A It says Cairo-Amman Bank.

15:30 15 Q It's pay to the order of Mr. Abu Aker, \$6,200?

16 A \$6,220.

17 Q And a statement from him that he has received a
18 check, correct?

19 A That's correct.

20 Q And would you read what it says that it's for at
21 the bottom?

22 A Number one, custom fees for the wheel chairs
23 from the port of Ashdod to Gaza through the Karni
24 crossing."

25 Q Flip back one page. This is the receipt,

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15:30 1 correct?

2 A That's what it says.

3 Q And it's for a check for \$6,220, correct?

4 A Correct.

5 Q And that also says it's for customs fees for

6 wheel chairs?

7 A It does.

8 Q And it says also that it's paid "to the invoices

9 of the Israeli customs dealer," correct?

10 A It says "according to the invoice of the Israeli

11 customs dealer," yes.

12 Q And check Number 1238, correct?

13 A Correct.

14 Q And if you go back once more to your summary,

15:31 15 20-63 on the second page, that also references Check 1238,

16 correct?

17 A It does.

18 Q I'll now ask you to look at Defendant's Exhibit

19 1106. Does this appear to be a document from the State of

20 Israel, Department of Customs?

21 A It does.

22 Q Do you know what VAT is?

23 A It's like a tax.

24 Q Something to do with import and export?

25 A It's value-added tax.

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15:32 1 Q It's importing and exporting?

2 A It has to do with things going in and out of the
3 country. I don't think it's limited, but I think it
4 includes it.

5 Q And this document also references the Ashdod
6 port, correct?

7 A Yes.

8 Q See it in the middle?

9 A I do.

10 Q And it references wheel chairs?

11 A It does.

12 MS. HOLLANDER: Your Honor, I move the admission
13 of 1106.

14 MR. GARRETT: Your Honor, with respect to this
15:33 15 one, I don't have an objection to the contents, but this
16 is a 2000 document. I believe you were referring to 2001.
17 I just wanted to ask for some connectivity to the item she
18 is referring to.

19 THE COURT: Is it your contention that 1106
20 relates to these previous documents?

21 MS. HOLLANDER: Yes, your Honor. The date is
22 December of 2000, and the date of the check reference is
23 January 6, 2001. So there is only really less than a
24 month difference.

25 THE COURT: Defendant's Exhibit 1106 is

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15:34 1 admitted.

2 BY MS. HOLLANDER:

3 Q Now, this appears to be an official document
4 from the State of Israel, correct?

5 A State of Israel, Department of Customs and VAT.

6 Q And it has a stamp on it with a date and some
7 Hebrew writing, correct?

8 A That's correct.

9 Q And they reverse the dates, correct? So it
10 would be December 10, 2000.

11 A They do reverse the dates.

12 Q You see that date stamped?

13 A I do, yes. I see it.

14 Q That would be December 10, 2000; is that
15 correct?

15:35

16 A That's correct.

17 Q And that's for 720 wheel chairs?

18 A That's what it says, yes.

19 Q These were documents you had in the Holy Land
20 files, correct?

21 A That's correct.

22 Q So in fact, when you said -- testified that you
23 couldn't follow any of the money once it got to the money
24 changer, in fact, these documents were available, weren't
25 they?

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15:35 1 A I think what I said was that when money went to
2 money changers we cannot always trace it.

3 Q You didn't show these documents to the jury to
4 trace these particular exhibits that you have on your
5 summary, did you?

6 A That's correct.

7 Q But you had these documents?

8 A They were in our possession.

9 Q And you had seen them, hadn't you?

10 A I have seen some documents from Abu Aker. I
11 don't recall specifically seeing this one. I may have.
12 But I don't know that I have ever seen a translation of
13 this particular document.

14 Q But this certainly relates to your summary about
15:36 15 where this money went, doesn't it?

16 A Yes, it does.

17 Q And you know that actually these wheel chairs
18 were distributed by Holy Land, don't you?

19 A I have seen documentation relating to wheel
20 chairs being shipped.

21 MS. HOLLANDER: Your Honor, at this time I'd
22 like to introduce Defendant's 421, 500, 505 and 506.
23 These are all photographs I would be happy to show the
24 Court involving these wheel chairs.

25 THE COURT: Any objection?

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15:37 1 MR. GARRETT: Yes, I object to the authenticity
2 of the photographs, relevance in terms of connectivity to
3 any of the evidence in the case. As your Honor will see,
4 different photographs, we don't know when they were taken,
5 what they were related to.

6 THE COURT: Well, on the basis of the present
7 foundation, I will sustain the objection.

8 BY MS. HOLLANDER:

9 Q Agent Burns, do you have the photographs?

10 A I do.

11 Q Could you look at Defendant's Exhibit 506. Do
12 you see that one?

13 A Let me see. I have it.

14 Q Do you see the logo on there?

15:37 15 A I do.

16 Q Can you identify that?

17 A Holy Land Foundation symbol.

18 Q And look at Defendant's Exhibit 505.

19 A I have it.

20 Q Can you identify the logo on there, on that
21 wheelchair?

22 A Holy Land Foundation.

23 Q Defendant's Exhibit 500?

24 A I have it.

25 Q Do you see the logo on there?

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15:38 1 A Yes, it's the Holy Land Foundation.

2 Q And finally, Defendant's 421, do you see the
3 logo on those two wheel chairs?

4 A I do.

5 Q And I believe you testified that you did see
6 correspondence regarding the fact that Holy Land did
7 import wheel chairs.

8 A I have seen their documentation saying that they
9 did.

10 Q And these photographs were found in the Holy
11 Land files, were they not?

12 A They were.

13 MS. HOLLANDER: Your Honor, again, I move the
14 admission of these photos that we have to show the Court.

15:39 15 THE COURT: Well, I just don't think we have the
16 proper foundation for them to be admitted, and I don't
17 think these are Rule 106 because we don't know they are
18 related to the other documents in evidence.

19 MS. HOLLANDER: Very well. I will wait to admit
20 these through other witnesses, your Honor.

21 THE COURT: All right.

22 BY MS. HOLLANDER:

23 Q Let's go back to Defendant's Exhibit 1103. That
24 one was the one that was actually a long list of food
25 products, correct?

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15:40 1 A That's correct.

2 Q And turn now to Defendant's Exhibit 1105. Do
3 you have that one?

4 A I do.

5 Q That document is also a document you found in
6 the Holy Land offices?

7 A It came from the Holy Land office, yes.

8 Q And it was originally in Arabic?

9 A That's correct.

10 Q It was translated. And it's about a food
11 parcels project for Ramadan 2000, correct?

12 A That's what it says.

13 Q And that's the same time period that we're
14 referring to, correct?

15:41 15 A Referring to in the previous Abu Aker exhibits?

16 Q Yes.

17 A Bear with me one second while I check.

18 Actually, I'm not sure. Are you referring to the wheel
19 chairs?

20 Q No, I'm referring to the food project now.

21 A The price offer?

22 Q Yes. This will help you. Pull up 20-63 and
23 just go over so that you can see the date on the left.

24 A Which one?

25 Q The first page. The two that are \$50,000. Do

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15:43 1 you see the dates there of 12-7-99 and 1-3-00?

2 A I do.

3 Q And now if you look at the document, Defendant's
4 Exhibit 1105 that you have. If you look at Page 1, the
5 first page of the English, and you see that it's the same
6 time period, 1999 to 2000?

7 A It says 1999 to 2000.

8 Q Same time period, correct. And on the next
9 page -- Turn to the second page of the English
10 translation. You will see under price offer that it was
11 agreed to award the bid to Fayez Abu Aker. Do you see
12 that?

13 A The second page of the translation?

14 Q Yes, ma'am.

15:44 15 A I see that.

16 Q So this appears to be the same person, correct?

17 A Appears to be the same person.

18 Q And the same person with the bid that we just
19 introduced as Defendant's Exhibit 1103, correct?

20 A Yes, it's the same person.

21 MS. HOLLANDER: Your Honor, I move Defendant's
22 Exhibit 1105 in evidence at this time.

23 MR. GARRETT: No objection.

24 THE COURT: Defendant's Exhibit 1105 is
25 admitted.

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15:45 1 BY MS. HOLLANDER:

2 Q Agent Burns, now we can go through it in a
3 little more detail. Skip to the Page 1 of the English
4 translation.

5 Would you just read this paragraph?

6 A It says "Due to the difficult economic
7 conditions that our people undergo in the Gaza Strip, we
8 propose to the Holy Land Foundation and the United States
9 to implement the food parcel project for the year 1999 to
10 2000 in the amount of \$2,000 U.S., and the response from
11 the brothers in the Foundation was positive. Thus, the
12 Foundation in America sent a letter of approval to
13 implement the food parcel project for the year 1999 to
14 2000 in the Gaza Strip in the amount of \$2,000 under the
15 supervision of the Holy Land Foundation Office in Gaza."

15:45

16 Q Turn to the next page. There is a report of
17 that project.

18 A It states how the project was implemented.

19 Q And you have seen other reports like this in the
20 Holy Land files, haven't you?

21 A I have.

22 Q And you have had this document in your
23 possession since 2002, haven't you?

24 A Yes.

25 Q And the second page shows how the project was

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15:46 1 implemented?

2 A It does.

3 Q And I won't make you read all of those
4 kilograms, but the first paragraph states what the food
5 parcel for the individual person will contain?

6 A It does. It lists the food items.

7 Q And there are to be 6,000 food parcels
8 throughout the Gaza Strip. Do you see that?

9 A That's what it says.

10 Q Now, Holy Land had a bid requirement, did they
11 not? Have you looked at the bidding requirements that
12 Holy Land had?

13 A I don't recall if I looked at bidding
14 requirements or not.

15:47 15 Q Why don't you read where it says second price
16 offer. What's under there?

17 A It says "Four main vendors that work in this
18 field have been contacted to receive bids. We have
19 received four sealed bids from these merchants. The
20 envelopes were opened during the board of directors
21 meeting, and it was agreed to award the bid to Merchant
22 Abu Aker after sorting out the bids because his price was
23 reasonable and the merchandise was clean and the
24 flexibility of paying off the merchandise."

25 Q So this isn't talking about money changing, is

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15:48 1 it? This is talking about a vendor providing food.

2 A Yes.

3 Q And this is the same gentlemen that you said was
4 a money changer?

5 A The same individual that Mr. Avi said in his
6 testimony.

7 Q You based what you said on what Mr. Avi said?

8 A I was asked, and I responded.

9 Q Correct. But you based your information on what
10 Mr. Avi said, correct?

11 A From what he told us, yes.

12 Q Now, the third section says the project was
13 coordinated with other organizations in the Gaza Strip,
14 correct?

15:48 15 A That's what it says.

16 Q Read that section, please.

17 A "The contact in the organizations and the
18 committees that work in the Gaza Strip and have experience
19 in the humanitarian field so that they provide us with a
20 list of families that will benefit from the project and
21 submit applications for assistance from the Foundation
22 provided that we consider the legal status of the
23 organizations and committees and that they should be
24 registered. We have inquired and authenticated the need
25 of their families through a random sampling. In

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15:49 1 distributing the shares of different areas, we considered
 2 measures that included the high population density and the
 3 high rate of poverty in these areas. We have received the
 4 required list from the organizations and committees along
 5 with the applications for assistance."

 6 Q Thank you. And the next page continues what
 7 they did and describes how the shares will be allotted,
 8 allocated, throughout Gaza; is that correct?

 9 A That's what the document discusses.

10 Q And then finally, there is an agreement with the
11 merchant, correct?

12 A It says "5th, The agreement with the merchant."

13 Q And if you turn the next page, it lists the name
14 of the organizations in Gaza and the amount of parcels
15:50 15 that each will get, correct?

16 A Correct.

17 Q And the next page continues that. Continues the
18 media, and then on the next page it has the project cost,
19 correct?

20 A It does.

21 Q And it comes to about \$200,000, correct?
22 \$200,000.

23 A \$197,000 when it's converted from shekels,
24 correct.

25 Q And it lists the items that are going to be in

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15:50 1 the parcels?

2 A Yes.

3 Q Go back and look at 1103 which was the price
4 offer, the bid. Do you have the food items there?

5 A I do.

6 Q And if you look at them and look at the food
7 items here -- not looking at every one -- do they appear
8 to be the same kinds of food? In other words, they both
9 have rice, correct?

10 A Yes.

11 Q And they both have dates?

12 A If you ask me about specifics, let me be sure
13 I'm correct on this. They do.

14 Q I'm leaving one up on the screen so that you can
15:52 15 compare.

16 A Okay.

17 Q And they both have yellow cheese?

18 A Yes.

19 Q Both have halava?

20 A Yes.

21 Q And they both appear to be about the same?
22 Similar food items?

23 A Similar food items.

24 Q Turn to the next page of 1105, do you see at the
25 top where it says the vendor has been paid \$200,000 in

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15:52 1 four installments?

2 A I do.

3 Q Let's go back to 20-63, your summary, and you
4 find actually that you have two checks there, one for
5 \$12,027.99, and that's to Mr. Abu Asker, correct?

6 A Correct.

7 Q And it looks like there was a correction. 1-3
8 to him. So you have only accounted for \$100,000, correct?

9 A In that portion?

10 Q To him around that time.

11 A Correct.

12 Q Now, I am going to ask you about some other
13 documents that go with this and see if we can't find the
14 \$200,000. You had the bank records and the Holy Land
15 records, right?

15:54

16 A That's correct.

17 Q Exhibit 1-279.

18 MS. HOLLANDER: And your Honor unless I say
19 otherwise, all of these have been admitted. Correct me if
20 I'm wrong. I'm pretty sure this has been admitted.

21 MR. GARRETT: What page?

22 MS. HOLLANDER: Page 40.

23 MR. GARRETT: Yes.

24 BY MS. HOLLANDER:

25 Q Now, this is one of the bank records you found,

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15:55 1 correct?

 2 A Correct.

 3 Q And this is an electronic payment advice for

 4 \$50,000, correct?

 5 A That's correct.

 6 Q On December 10th, 1999, correct?

 7 A Correct.

 8 Q And if you go to 19-15. And go to Page 64

 9 please. That's a check in Arabic, correct?

 10 A Correct.

 11 Q And that's for \$49,995, correct?

 12 A Correct.

 13 Q And go to the next page, Page 65. That's a

 14 transfer, and some of it gets taken out for processing as

15:56 15 the checks go along, correct?

 16 A It does.

 17 Q So that's a check for \$49,995, correct?

 18 A That's correct.

 19 Q Actually that's a deposit I believe. It's a

 20 transfer from Holy Land?

 21 A Yes, you are correct. I'm sorry.

 22 Q It's a transfer from Holy Land in the United

 23 States to Holy Land in Gaza?

 24 A Got you.

 25 Q Correct?

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15:57 1 A Correct.

 2 Q And if you then go to Page 17 of 19-15, you see,

 3 Agent Burns, that deposit of \$49,995?

 4 A I do, yes.

 5 Q And if you go along, that's December 14th, 1999?

 6 A That's correct.

 7 Q Right straight across?

 8 A Yes.

 9 Q Now, you had a summary actually that dealt with

 10 these documents, and let me just -- That's 20-1, bottom of

 11 Page 16. Go up to the very bottom one, please. Now, you

 12 see, Agent Burns, December 10th, 1999?

 13 A I do.

 14 Q And now we're back to writing it the way we're

15:59 15 used to writing it?

 16 A That's correct.

 17 Q And that's from the Holy Land in United States

 18 to the Holy Land in Gaza?

 19 A It's the Cairo Bank. I don't have the account

 20 numbers, so I don't know if that's the Gaza account, but

 21 it's the same account we were looking at.

 22 Q And that's for \$50,000, correct?

 23 A Correct.

 24 Q And if you look at the exhibit, it references

 25 1-279, Page 40, and that's just where we were a minute

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15:59 1 ago?

2 A Yes.

3 Q I should have done it in reverse order.

4 Now, if you will go back please to 19-15 on the last
5 page, Page 719, and right below -- If you expand this
6 area, the \$49,000 and the one right below is what I'm
7 looking for. Now, the \$49,995 is a deposit column?

8 A Yes.

9 Q And the next column is checks?

10 A Yes.

11 Q Do you see the check number there?

12 A Yes.

13 Q And do you see 6233?

14 A I do.

16:00 15 Q And do you see a date there of 12-20-99?

16 A I do.

17 Q This was not on your summary chart of 20-63?

18 A I would have to look at it.

19 Q So you don't have this particular one on that
20 summary?

21 A That's correct.

22 Q If you go back -- I'll start with your summary
23 because I think that makes more sense. Go to 20-1, Page
24 17, and it's the second one. 117 is what I'm looking for.
25 Now, that's a check, is it not, from the Holy Land

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16:02 1 Foundation to the same bank, Cairo Bank, correct?
 2 A I believe that would be a wire transfer.
 3 Q Excuse me?
 4 A A wire transfer.
 5 Q A wire transfer, I'm sorry. \$117,506 or 8?
 6 A I believe it's \$117,500.
 7 Q Six or eight?
 8 A Correct.
 9 Q And that's from the Holy Land Foundation in the
10 United States to the Gaza office, correct?
 11 A Yes, correct.
 12 Q Now, you see your exhibit number here? These
13 are the exhibits you relied on. I keep saying you, but
14 did you make this chart?
16:03 15 A I in conjunction with the IRS agents.
 16 Q When I say you, I mean the --
 17 A Collective me.
 18 Q One of the exhibits this relies on is 1-288,
19 Page 1 and Page 3, correct?
 20 A Correct.
 21 Q That's the fund transfer notification involving
22 the same wire transfer; is that correct?
 23 A That's correct.
 24 Q And if you go down past -- keep going down a
25 little ways. If you would expand from general to those

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16:04 1 four remarks. Now, this says it's for \$50,000 for Ramadan
 2 99-00 food package promise in Gaza, correct?

 3 A Correct.

 4 Q And that's what we have been talking about, was
 5 a food project in Gaza for Ramadan 1999 to 2000. That's
 6 what the food project was that we referred to a few
 7 minutes ago?

 8 A We didn't talk about it being for Ramadan. It
 9 may well have been, but I'd like to check and see before I
 10 say it was for Ramadan or not.

 11 Q Sure. I think if you look on Defendant's
 12 Exhibit 1105, Page 1. It says Ramadan 2000.

 13 A It does.

 14 Q And that meant bridging December-January of that
16:05 15 year?

 16 A I would assume.

 17 Q Ramadan changes every year, the date, doesn't
 18 it?

 19 A It does.

 20 Q Go to the next page of this exhibit, Page 2.
 21 This one is fine. Page 3 again references the same amount
 22 of \$117,506, correct?

 23 A That's correct.

 24 Q Now, I'd like to go to a page --

 25 MS. HOLLANDER: And the government introduced

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16:07 1 some pages of Government's Exhibit 1-279 but not all of
 2 them. And I'd like under the rule of completeness because
 3 it goes through this transaction to introduce one
 4 additional page from that exhibit, and it's Page 52.

5 MR. GARRETT: No objection.

6 THE COURT: Did you say that was Page 52?

7 MS. HOLLANDER: Of Government's Exhibit 1-279.

8 THE COURT: Page 52 of Government's Exhibit
9 1-279 is admitted.

10 Q Now, this is one of the bank documents that the
11 jury saw, correct?

12 A (No response)

13 Q Or actually you got this directly from the Holy
14 Land, correct?

16:08 15 A That's correct.

16 Q So this was in the Holy Land office since 2002,
17 correct?

18 A That's correct.

19 Q With you?

20 A That's correct.

21 Q You didn't have to go to a bank to get this?

22 A That's correct.

23 Q And if you look at this again, you find the same
24 \$117,506, correct?

25 A That's correct.

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16:08 1 Q And you find the same date, correct?

 2 A That's correct.

 3 Q And it says here -- What does it say this money

 4 is to be used for, up here on the right?

 5 A Do you want me to read it?

 6 Q Yes.

 7 A Food package, fifty thousand; zakat fitr,

 8 \$25,000; Eid bonus, \$300,000; orphans packages, \$30,960;

 9 students, 66; families, \$4,320; orphan gift, 60."

 10 Q Do you know what zakat fitr is?

 11 A I believe it's like one of the holidays, a gift

 12 during the holiday.

 13 Q It's a special kind of zakat for Ramadan. Would

 14 that also be correct?

16:09 15 A Yes.

 16 Q And this references a food package?

 17 A It does.

 18 Q And the same amount of money, \$50,000, correct?

 19 A Yes.

 20 Q And the same amount that Mr. Abu Aker received,

 21 same amount. He received \$50,000 around that time,

 22 correct?

 23 A We talked about two \$50,000 transactions he

 24 received. But I'm not sure on the dates. I don't know if

 25 they link up because we also talked about two fifty

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16:10 1 thousand transactions that didn't necessarily go to him.

2 Q We don't know where they went, but we'll link
3 them up in a minute. My question was not asking you to be
4 that precise. He did receive \$50,000 in December of 1999,
5 correct?

6 A Yes.

7 Q Now, go back to 219. And again, this is another
8 reference, Page 69. This is one of the documents in the
9 Holy Land records?

10 A I believe this was one of those foreign records.

11 MS. HOLLANDER: May I approach, your Honor? I
12 don't think she can see it.

13 BY MS. HOLLANDER:

14 Q I stand corrected. This is correct. This is
16:11 15 one of the ones you received from the bank subpoenas?

16 A That's correct.

17 Q But this also references the same transaction,
18 does it not, the \$117,500, and now it's five hundred, and
19 I can't read the last.

20 A Looks like 01 instead of 506.

21 Q But those changes sometimes happen, too,
22 don't they? The amounts get taken out as they go along?

23 A I have to look at the translation to see exactly
24 what went on, but it could have been.

25 Q Page 70, here is a reference a little easier for

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16:12 1 all of us to read. This is a receipt into the bank?

2 A Correct.

3 Q And it's the same amount. Now it's \$117,501.

4 So either it's a bank commission or somebody wrote the

5 wrong number, and it carried over?

6 A Is this document dated? I only have a portion
7 of the screen.

8 Q There is no date on this that I can find.

9 If we can go to 71, the next page. If you can
10 enlarge where this deposit is right here, please. So now
11 we see the same deposit, correct?

12 A Correct.

13 Q And it's going from Holy Land in the United
14 States to Holy Land in Gaza, correct?

16:13 15 A Correct. Or actually I believe -- Is this the
16 Hebron branch? It looks like the Hebron branch.

17 Q It may have gone to the Hebron branch. Part of
18 it may have gone to the Hebron branch, and I think that
19 will get cleared up as we go along. These records are not
20 always that easy to follow, are they?

21 A No.

22 Q But this is another one that you got from a
23 foreign bank, correct?

24 A That's correct.

25 Q If you can go to the next page, the third one is

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16:14 1 from down here, \$117,000. So it does appear that this one
2 went to the Hebron branch, correct?

3 A That's correct.

4 Q Now, if we look on Page 236 of this same
5 document, 19-15. That one is hard to decipher. Let's
6 look at the next page. Now, this has a sum of \$50,000 to
7 Mr. Abu Aker. Is that correct?

8 A That's correct.

9 Q And this is Check Number 6235, correct?

10 A Yes.

11 Q Now, go back to 20-63. And if you will go back
12 to 20-63, the fourth one. I'm sorry. The fifth one. My
13 mistake.

14 A I think it was just above that.

16:16 15 Q 6235. Now, this one is on your summary, isn't
16 it?

17 A Yes.

18 Q So now we have traced this one all the way to
19 Mr. Abu Aker, correct?

20 A That's correct.

21 Q And this is the same Mr. Abu Aker who won the
22 bid and was supposed to receive \$200,000 for food for
23 Ramadan, correct?

24 A According to the documents we looked at, yes.

25 Q Let's go now to trace another one. Go back to

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16:18 1 the other summary, 20-1 on Page 17, and if you look at the
2 transaction for \$190,743. Do you see that one?

3 A I do.

4 Q Right around the same time period, right?
5 December 28th, 1999.

6 A That's correct.

7 Q Holy Land wired to Holy Land in Gaza, correct?

8 A I believe it's Hebron.

9 Q Or Hebron. But it's to the same bank account,
10 is it not?

11 A Yes, it's 4883.

12 Q And this one relies on your exhibit 1-279 again,
13 correct?

14 A Correct.

16:19 15 Q And some other exhibits. So if we look at 1-279
16 on Page 55. Now, we're talking about the same
17 transaction, correct?

18 A Correct.

19 Q And would you read what this transaction is for?

20 A It says students, \$3,141; orphan gift. \$130;
21 family gift, \$4,200. Equals sponsorship, \$24,153.
22 \$50,000, food packages. \$50,000, zakat fitr. \$50,000,
23 orphan sponsorship. Needy child, \$405. And salaries,
24 \$2,700.

25 Q And where did this document come from?

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16:20 1 A From the Holy Land office.

 2 Q So you have had this document in your possession

 3 since 2002, correct?

 4 A Yes.

 5 Q And this again references \$50,000 for food

 6 packages, correct?

 7 A Yes.

 8 Q And we're talking about the period 1999-2000,

 9 around Ramadan of that year?

 10 A I believe that was around the time of Ramadan in

 11 1999.

 12 Q Now, let's look at 1-277 on Page 72. This is a

 13 fund transfer notification, correct?

 14 A Correct.

16:21 15 Q Same amount of money, correct?

 16 A Correct.

 17 Q And under social services, what does it say

 18 there, the first one?

 19 A \$50,000 for Ramadan 1999-2000 food package

 20 program (50% for Gaza, 50% for West Bank).

 21 Q So this is again referring to a food program

 22 that we saw, the same time period?

 23 A The same time period.

 24 Q And it's in Gaza?

 25 A Fifty percent in Gaza and fifty percent in the

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16:22 1 West Bank.

2 Q And it's the same amount, \$50,000. The vendor
3 was to receive four payments of \$50,000, correct?

4 A According to that document, yes.

5 MS. HOLLANDER: The government again didn't
6 introduce all the pages of 1-277, and we would like to
7 move at this time the additional documents related to this
8 transaction, and they are Pages 73 to 100 of that
9 document. I can show the government to make it easier for
10 them to find, your Honor.

11 THE COURT: All right.

12 MR. GARRETT: No objection, your Honor.

13 THE COURT: Pages 73 to 100 of Government's
14 Exhibit 1-277 are admitted under the rule of completeness.

16:24 15 MS. HOLLANDER: Thank you, your Honor.

16 BY MS. HOLLANDER:

17 Q We're not going through all of these, but if we
18 can look at Page 75. Now, this is part of a fund transfer
19 notification which includes various sponsorships, correct?

20 A That's what it says.

21 Q I'm not going to ask you to read all of these
22 because it's essentially what you have been reading, but
23 if you will go to the next page and just enlarge that a
24 little bit. This is an orphan's list, correct?

25 A Correct.

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16:26 1 Q And it has the amounts that people are to be
2 paid or the orphans are to get for looks like the past
3 three months, correct, or two months?
4 A I think it's three.
5 Q Three months. If you just page through.
6 Another page of orphans list, another page of orphans
7 list. If you will go now -- The orphans list continues,
8 and if you will go to Pages 94 and 1,000, that's a student
9 list, correct?
10 A That's what it says.
11 Q And one of the things you had read before is
12 where the students were to get some funds, correct?
13 A We discussed that before.
14 Q And if you will go to Page 98, that says family
16:27 15 dues, correct?
16 A It does.
17 Q So those are families that are being sponsored
18 out of this money, correct?
19 A Correct.
20 Q And you had this document in your possession
21 since 2002, did you not?
22 A Correct.
23 Q If you can go to 1-283, Page 668. This is
24 another fund transfer notification for this \$190,000.
25 Another, I mean similar to the ones we have seen earlier?

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16:28 1 A That's correct.

2 Q If you will go to 19-15, Page 74. This is a
3 fund transfer or receipt that is in Arabic. So go to the
4 next page, please. And again, this is a fund transfer for
5 the \$190,743 that we were discussing, correct?

6 A Correct.

7 Q Go to Page 49 of that document, same exhibit.
8 Right near the top up here. So this again is \$190,743?

9 A That's correct.

10 Q And it's like January 3rd, 2000?

11 A That's correct.

12 MR. GARRETT: I'm sorry. Just for the clarity,
13 you are referring to the HLF territory schedule? Is that
14 what you are referring back to?

16:30 15 MS. HOLLANDER: This one? Yes, this is 19-15.

16 MR. GARRETT: I'm just trying to figure out what
17 schedule you were referring to. You used the money
18 changer and then went to the territory.

19 MS. HOLLANDER: Which summary?

20 MR. GARRETT: Yes.

21 MS. HOLLANDER: I'm referring to both, but right
22 now I'm referring to 19-15. I am going back to that
23 summary.

24 BY MS. HOLLANDER:

25 Q Go to Page 243 of the same document, 19-15, and

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16:31 1 enlarge that just a little bit. And this is another check
 2 to Fayez Abu Aker for \$50,000 on January 3, 2000?

 3 A That's correct.

 4 Q And this is Check 6239?

 5 A Correct.

 6 Q Now, I think this will answer your question. Go
 7 to 20-63. And it's the third one from the bottom here.

 8 And that's Check 6239 that you identified here, correct?

 9 A That's correct.

 10 Q And you only identified it going to Mr. Abu
 11 Aker, correct?

 12 A That's correct.

 13 Q To complete this transaction, if we go to 19-15
 14 again, Page 49, enlarge this area up here. And there you

16:33 15 see Check 6239, correct?

 16 A Correct.

 17 Q And it's the same check that we're talking
 18 about, right?

 19 A It is.

 20 Q So that's the second of the two that you
 21 identified going to Mr. Abu Aker who's supposed to get
 22 four payments of \$50,000 according to the project
 23 assessment, correct?

 24 A That's kind of two questions.

 25 Q That's the second of -- In other words, you

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16:34 1 identified two \$50,000 checks to Mr. Fayez Abu Aker,
2 correct?
3 A Correct.
4 Q One December 27, 1999 and one January 3rd, 2000,
5 correct?
6 A Correct.
7 Q And we have now traced both of those two checks,
8 correct?
9 A Correct.
10 Q And we have also identified that Mr. Abu Aker
11 was the recipient of a successful bid for a Ramadan food
12 project program for \$200,000 during that time period,
13 correct?
14 A Yes, that's what we discussed in these
16:34 15 documents.
16 Q And he was to get four payments of \$50,000 each,
17 correct?
18 A That's correct, according to those documents.
19 Q That's right. So we have two checks that you
20 have identified directly went to him and a third one for
21 \$50,000, but we weren't able to trace it to him, correct?
22 A We didn't look at the translations on that one
23 so -- As far as I know the only two that we were able to
24 trace to him were the ones on the schedule. The third one
25 that you and I talked about, I don't know if we went to a

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16:35 1 translation or not. I think maybe we only traced it as
 2 far as the accounts in Hebron maybe.

 3 Q I couldn't find a name in there, but perhaps if
 4 I look a little harder, I will be able to do it. Let me
 5 ask you this. I have one more to do. Maybe I should just
 6 do the last one. Go back to 20-1. And if you look at the
 7 fourth one from the bottom, the one for \$75,400. I'm
 8 sorry. Page 17.

 9 You see this one on January 13th, 2000?

10 A I do.

11 Q The Holy Land Foundation with this same account
12 in the bank in Cairo?

13 A Yes.

14 Q \$75,400?

16:36 15 A Well, to be clear, it says Cairo Bank, but I
16 believe this is the branch in Hebron.

17 Q And this relies on your Exhibit 1-279 at Page
18 52?

19 A Yes.

20 MR. GARRETT: Is this the HLF summary?

21 MS. HOLLANDER: Yes.

22 BY MS. HOLLANDER:

23 Q So this again is a document that was in the Holy
24 Land office, correct?

25 A Correct.

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16:38 1 Q And it shows \$75,000, correct?

 2 A It does.

 3 Q And it says \$50,000 for food packages and \$4,320

 4 for family aid?

 5 A It does.

 6 Q And if you look at 1-288 on Page 80 and we have

 7 the same transaction, correct?

 8 A Correct.

 9 Q And we're still in the same time period, January

 10 13th, 2000, correct?

 11 A Correct.

 12 Q And the beneficiary is the Holy Land Foundation,

 13 correct?

 14 A Correct.

16:39 15 Q And if you will just read the three things

 16 listed under social services at the bottom.

 17 A It says "\$50,000 for Ramadan, 99/00 food package

 18 program Gaza. \$25,000 99/00 food package program West

 19 Bank. \$400 one time family aid for Sana Farajallah in

 20 Gaza City."

 21 Q Go to Page 82. That's a request for the food

 22 package funds?

 23 A Yes.

 24 Q And a request for Gaza?

 25 A Yes.

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16:39 1 Q And for \$75,400?

 2 A Correct.

 3 Q And again, it's Ramadan 1999-2000?

 4 A Correct.

 5 Q It says Rmdn 99-00. Can you we assume that's

 6 what that means?

 7 A Yes.

 8 Q Go back to 19-15, please. Page 79. Now, this

 9 one says \$75,375, does it not?

 10 A That's correct.

 11 Q But their currency sometimes changes as markets

 12 changes?

 13 A It does. I mean, if you're switching between

 14 dollars and shekels, but not I don't think to dollars from

16:41 15 dollars.

 16 Q But that's why you sometimes see checks?

 17 A Like I said, I don't think you have a currency

 18 change from dollars to dollars. There may have been a

 19 commission. I don't know exactly why this would be five

 20 dollars less than the original. We have seen commissions

 21 and things like that taken out.

 22 Q Could be?

 23 A Could be.

 24 Q But we're tracing the same transaction?

 25 A You can tell by the dates on the translation.

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16:41 1 Q Turn to the next page, Page 080. Same
 2 transaction?
 3 A I would say that it is.
 4 Q And if we go back to Page 49 of this document,
 5 we again see right below the \$75,375 \$50,000 withdrawn,
 6 correct?
 7 A Correct.
 8 Q And that's Check Number 6255?
 9 A That's correct.
 10 Q And that's the same time period, January 22nd,
 11 2000, correct?
 12 A That's correct.
 13 Q Now, let me ask you to look finally at
 14 Government's Exhibit --
16:44 15 MS. HOLLANDER: Bring up Defendant's Exhibit
 16 1093. Don't have it? Okay.
 17 BY MS. HOLLANDER:
 18 Q Let me draw your attention to the ones where I
 19 have the marks. Those are my marks. You see food
 20 package, Gaza, Palestine?
 21 A I do.
 22 Q And Holy Land Foundation Gaza, you see that,
 23 coming across?
 24 A Yes.
 25 Q And 12-10-99?

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16:44 1 A Yes.

 2 Q \$50,000?

 3 A I see that.

 4 Q And you see a second one for \$50,000. So there

 5 is \$100,000?

 6 A I do.

 7 Q And then you see a food package for West Bank

 8 and Gaza for \$20,000 on 12-28-99?

 9 A Yes.

 10 Q This is another page of the same 10-93. Do you

 11 see again food package to Gaza at the bottom of the page?

 12 A Can you point to which one you are referencing?

 13 Q Food package Gaza and then food package Gaza

 14 right there?

16:46 15 A I see it.

 16 Q And it goes across, and it's actually \$75,000?

 17 A Yes.

 18 Q And the same date, January of 2000. Now, you

 19 had this grants list in your possession since 2002 also,

 20 correct?

 21 A That's correct.

 22 Q So what I have just done here is to trace all of

 23 this money and to show the bid to Mr. Abu Aker and the

 24 food packages -- the FBI could have done, couldn't it?

 25 A I don't know if we got to those extra two

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16:46 1 \$50,000 transactions that you were talking about. So the
 2 two \$50,000 that we had traced to Fayez Abu Aker on the
 3 schedules, we just went over. But I'm not sure. I would
 4 need to look at the translations of the documents to see
 5 where those other \$50,000 ones went.

 6 Q The two \$50,000 that you traced when you were
 7 here on direct examination, you said that he was a money
 8 changer, didn't you?

 9 A A HAMAS money changer, yes.

10 Q You didn't show the jury the food project, did
11 you?

12 A I wasn't asked about the food project.

13 Q You didn't provide that on your summary either,
14 did you? You didn't provide anything about where this
16:47 15 money actually went?

16 A Both of those transactions were on the summary.

17 Q But you didn't provide the rest of the
18 information, did you? You didn't provide it, did you?
19 It's a simple question. Yes or no.

20 A I think most of those exhibits we just talked
21 about were government's exhibits. I'm sorry if I'm
22 misunderstanding the question. But most of the pages we
23 went through were government exhibits.

24 Q Well, the food package exhibit was just
25 translated two days ago?

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16:48 1 A Yes.

2 Q And the bid was translated just two days ago?

3 A Yes.

4 Q And those are both documents that the FBI has
5 had in its possession since 2002, correct?

6 A Yes.

7 THE COURT: Ms. Hollander, it's time for us to
8 take our overnight recess. Please remember to observe the
9 instructions I have given you regarding your conduct as
10 jurors while we're apart. We'll be in recess until nine
11 o'clock tomorrow morning.

12 (Jury out)

13 THE COURT: Ladies and Gentlemen, I have a
14 couple of matters. I have a motion filed by the
16:49 15 government today under Rule 26.2. The certificate of
16 conference indicates the defendants are not opposed. So I
17 will grant that motion.

18 Also I have a joint motion from the defendants
19 in limine to preclude the government from questioning
20 former counsel about privileged communications which was
21 filed on August 26. And an opposition from the government
22 which was filed yesterday, August 28th. I am in agreement
23 with the government's opposition that I don't think a
24 showing has just been made that there were privileged
25 communications between Mr. Bryant, the proposed defense

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